



Periodic Review / Retain Regulation Agency Background Document

Agency name	State Board of Social Services
Virginia Administrative Code (VAC) citation	22 VAC 40-90
Regulation title	Regulation for Criminal Record Checks for Assisted Living Facilities and Adult Day Care Centers
Document preparation date	Enter date this form is uploaded on the Town Hall

This form is used when the agency has completed a periodic review of a regulation and plans to retain that regulation without change. This information is required pursuant to Executive Orders 21 (2002) and 58 (1999) (governor.state.va.us/Press_Policy/Executive_Orders/EOHome.html).

Legal basis

Please identify the state and/or federal source of legal authority for the regulation, including (1) the most relevant law and/or regulation, and (2) promulgating entity, i.e., the agency, board, or person. State that the Office of the Attorney General has certified that the entity continues to have the proper authority to promulgate this regulation.

§ 63.2-1720 of the *Code of Virginia* provides state authority. The authority is mandatory. The regulation does not exceed the minimum requirements of the state mandate. The Office of the Attorney General has certified that the Department of Social Services continues to have the proper authority to promulgate this regulation.

Alternatives

Please describe all viable alternatives for achieving the purpose of the existing regulation that have been considered as part of the periodic review process. Include an explanation of why such alternatives were rejected and why this regulation is the least burdensome alternative available for achieving the purpose of the regulation.

There is no alternative to the regulation because the *Code of Virginia* mandates that criminal record reports be obtained and sworn disclosure statements submitted.

Public comment

Please summarize all public comment received in response to the Notice of Periodic Review and provide the agency response. Please indicate if an informal advisory group was formed for purposes of assisting in the periodic review.

Commenter	Comment	Agency response
Virginia Association of Nonprofit Homes for the Aging	To make no changes to the regulation.	To take the action recommended.

Effectiveness

Please indicate whether the regulation meets the criteria set out in Executive Order 21, e.g., is necessary for the protection of public health, safety, and welfare, and is clearly written and easily understandable.

The purpose of the regulation is to establish minimum standards to ensure that assisted living facilities and adult day care centers do not hire for compensated employment persons who have been convicted of certain crimes. The regulation protects the safety and welfare of assisted living facility residents and adult day care attendees. The standards are monitored and compliance documented through on-site inspections conducted at least once a year and more often for most facilities. The regulation is clearly written and easily understandable by the individuals and entities affected by the scope of the document.

Result

Please state that the agency is recommending that the regulation should stay in effect without change.

The Department of Social Services recommends that the regulation stay in effect without change.

Family impact

Please provide an analysis of the regulation’s impact on the institution of the family and family stability.

This regulation should have a positive impact on the family because it ensures that facilities cannot hire for compensated employment persons who have been convicted of certain crimes. Ensuring that persons convicted of certain crimes are not in contact with vulnerable persons residing in or attending regularly the facilities this regulation covers, is positive not only for the residents or participants, but is reassuring for the family members who often have reservations about admitting or leaving loved ones in the care of others in a residential or adult day care setting.